

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 442 – SB 496

February 18, 2009

SUMMARY OF BILL: Exempts from state and local sales and use tax any food or drinks supplied as part of a packaged room rate by lodging operators, when the purchase price of such lodging is subject to sales tax and when no separate charges have been made for such food or drinks.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue - \$239,000

Decrease Local Revenue - \$108,600

Assumptions:

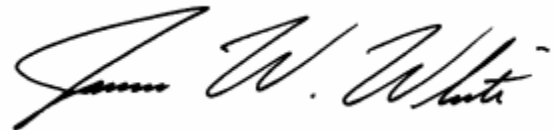
- Breakfasts provided by lodging establishments where occupants serve themselves are considered tax exempt.
- Hotels with on-site restaurants charge appropriate sales and use tax and such charges are considered separate charges for the purpose of this fiscal note.
- According to the Department of Revenue, some hotels without on-site restaurants may provide free breakfast through room service. The tax on such food and beverages is paid by hotel establishments for the use and consumption of such food and beverages for providing the taxable service. The department indicates that while its value is naturally passed onto the occupant, it is no longer a tax and is not charged as a tax to the occupant who pays tax on the total charge for the room.
- The fiscal impact of this bill is dependent upon several unknown factors such as the number of lodging establishments erroneously double-taxing occupants for such food and beverages, the extent of total sales tax revenue resulting from such erroneous charges, and the extent to which this bill would prevent such erroneous charges from occurring in the future.
- According to the Department of Revenue, state sales tax collections derived from hotel and lodging establishments in FY07-08 were approximately \$160,910,000.

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- According to 2002 Economic Census data, approximately 29.7 percent of total hotel sales are derived from food and beverages. Therefore, it is estimated that approximately \$47,790,300 ($\$160,910,000 \times 29.7\% = \$47,790,270$) was generated from food and beverages served at hotel establishments.
- It is estimated that no more than one percent of current state sales tax collections (approximately \$478,000) are derived from hotel establishments erroneously double-taxing its occupants.
- Fifty percent (\$239,000) of such erroneous double-taxation will be corrected as a result of this bill. Therefore, the decrease to state revenue is estimated to be \$239,000 per year.
- The state sales tax rate on food and food ingredients is 5.5 percent.
- The average local option sales tax rate is estimated to be 2.5 percent.
- The decrease of local government revenue from reduced local option sales tax revenue is estimated to be \$108,600 per year [$(\$239,000 / 5.5\%) \times 2.5\% = \$108,636$].

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/rnc